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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,734	01/12/2001	Sandra Hutchins	05313P002	9760

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EXAMINER

DORVIL, RICHEMOND

ART UNIT	PAPER NUMBER
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2654

DATE MAILED: 09/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/759,734

Applicant(s)

HUTCHINS, SANDRA

Examiner

Richmond Dorvil

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of 37 CFR 1.71(a) - (c):

(a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.

(b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.

© In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

The specification is objected to under 37 CFR 1.71 as failing to adequately teach how to make and/or use the invention. The specification is enabling for a portion of the subject matter claimed but the enablement is not commensurate in scope with the claims. Specifically, the specification fails to show how the "encoder" (claim 1) or the "decoder" (claim 9), which

appears in no combination with another element or means, can perform the claimed functions. Thus, it would require undue experimentation for a person having ordinary skill in the pertinent art to make and use the invention as disclosed and claimed.

1. Claims 1-39 are rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification. Single means claims 1, 9, are subjected to an undue breadth rejection. See *In re Hyatt*, 708 F.2d 712, 714-715, 218 USPQ 195, 197 (Fed. Cir. 1983).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1,-3, 8, 9, 10-11, 13, 14, 15-16, 19-23, 25, 27-28, 32, 34, 35, 37-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Zinser Jr. et al., Patent No. 6,138092.

As per claim 1, Zinser , Jr. et al. disclose an apparatus comprising an encoder for compressing a plurality of signals at variable frame rates (see col. 7, lines 13-14), based on a

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plurality of prioritized parameters to reduce signal bandwidth while preserving perceptual signal quality, (see col. 4, lines 31-35; col. 5, lines 15-40; col. 4, lines 54-56).

As per claim 9, Zinser , Jr. et al. disclose an apparatus comprising an decoder for decompressing a plurality of signals at variable frame rates based on a plurality of prioritized parameters to reduce signal bandwidth while preserving perceptual signal quality, (see Fig. 5 and col. 15, lines 20-30).

As per claims 14, 26, Zinser , Jr. et al. disclose a method comprising:
receive a plurality of signals form a first transmission device, (see Fig. 1, item 102);
encode the plurality of signals in a compressed format, (see col. 4, lines 31-35); and
transmit the plurality of signals in a compressed format through a transmission medium at variable frame rates based on a plurality of prioritized parameters to reduce signal bandwidth while preserving perceptual signal quality, (see col. 5, lines 15-40; col. 4, lines 54-56 and Fig. 1).

As per claims 20, 33, Zinser , Jr. et al. disclose a method comprising:
receive a plurality of signals form a first transmission device in a compressed format through a transmission medium at variable frame rates based on a plurality of prioritized parameters to reduce signal bandwidth while preserving perceptual signal quality, (see Fig. 5 and Fig. 1, items 20, 17, 21; col. 15, lines 20-30);

Decode the plurality of signals and transmit the decoded signals to a first receiving device, (see Fig. 1, item 20 and 107).

As per claim 2, Zinser , Jr. et al. disclose a method wherein the transmission rate of the plurality of compressed signals is dynamically set, (see col. 14, lines 35-60).

As per claim 3, Zinser, Jr. et al. disclose a method wherein the plurality of compressed signals are speech signals, (see Abstract and col. 8, lines 36-48).

As per claim 8, Zinser, Jr. et al. disclose a method wherein a priority level of each of the plurality of prioritized parameters is based on quality of speech, (see col. 5, lines 5-40).

As per claims 10-11, 13, 15-16, 19, 21-22, 25, 27-28, 32, 34, 35, 37-39, claims 10-11, 13, 15-16, 19, 21-22, 25, 27-28, 32, 34, 35, 37-39, are similar in scope and content to claims 1-3 and 8 rejected above, therefore claims 10-11, 13, 15-16, 19, 21-22, 25, 27-28, 32, 34, 35, 37-39, are rejected under the same rationale.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-7, 12, 14, 17-18, 20, 23, 24, 26, 29-31, 33, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zinser, Jr. et al. in view of Begstrom et al., Patent No. 5,809, 459.

As per claims 4-7, 12, 14, 17-18, 20, 23, 24, 26, 29-31, 33, 36, Zinser, Jr. et al. disclose all the limitations of claim 1 upon which claim 4 depends. Zinser, Jr. et al. Fail to explicitly teach an apparatus wherein the encoder comprises an epoch locator unit, a first and second epoch analyzer and a frame assembler unit. However, these features are well known in the art as evidenced by Begstrom et al. which disclose an encoder comprising an epoch locator unit, (see Fig. 1, item

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110), a first and second epoch analyzer, (see Fig. 8 and Fig. 9) and a frame assembler unit (Fig. 10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use an encoder comprising an epoch locator unit, a first and second epoch analyzer and a frame assembler unit because Begstrom et al. teach one of ordinary skill in the art the benefit of using this encoder to improve speech compression ratio without significant loss of quality.

As per claims 12,14, 17-18, 20, 23, 24, 26, 29-31,33, 36, claims 12,14, 17-18, 20, 23, 24, 26, 29-31,33, 36 are similar in scope and content to claims 4-7 rejected above, therefore claims 12,14, 17-18, 20, 23, 24, 26, 29-31,33, 36 are rejected under the same rationale.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See Pto-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richemond Dorvil whose telephone number is (703) 305-9645. The examiner can normally be reached on Tuesday-Friday 9:30AM to 8:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (703) 308-5576. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 3059508 for regular communications and (703) 308-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

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Richmond Dorvil
Primary Examiner
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RD
September 7, 2002